

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General and Housing to which was referred House Bill
3 No. 66 entitled “An act relating to paid family and medical leave insurance”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

7 **Sec. 1.** 21 V.S.A. § 471 is amended to read:

8 § 471. DEFINITIONS

9 As used in this subchapter:

10 (1) “Commissioner” means the Commissioner of Labor.

11 (2) “Domestic partner” has the same meaning as in 17 V.S.A. § 2414.

12 (3) “Employer” means an individual, organization, or governmental
13 body, partnership, association, corporation, legal representative, trustee,
14 receiver, trustee in bankruptcy, and any common carrier by rail, motor, water,
15 air, or express company doing business in or operating within this State which
16 for the purposes of parental leave employs 10 or more individuals who are
17 employed for an average of at least 30 hours per week during a year and for the
18 purposes of family leave employs 15 or more individuals for an average of at
19 least 30 hours per week during a year a person who employs one or more
20 individuals in Vermont.

21 (2)(4) “Employee” means a person who, either:

1 (A) in consideration of direct or indirect gain or profit, has been
2 continuously employed by the same employer for a period of one year for an
3 average of at least 30 hours per week; or

4 (B) is employed by an employer and, during at least two of the last
5 four completed calendar quarters, has received payments with respect to
6 services performed for the employer from which the employer is required to
7 withhold Vermont income tax pursuant to 32 V.S.A. chapter 151, subchapter 4.

8 ~~(3)(5)~~ “Family leave” means a leave of absence from employment by an
9 employee who works for an employer which employs 15 or more individuals
10 who are employed for an average of at least 30 hours per week during the year
11 for one of the following reasons:

12 (A) the serious illness or injury of the employee; or

13 (B) the serious illness or injury of the employee’s child, stepchild or
14 ward who lives with the employee, foster child, parent, spouse, or parent of the
15 employee’s spouse; family member;

16 ~~(4)~~ “Parental leave” means a leave of absence from employment by an
17 employee who works for an employer which employs 10 or more individuals
18 who are employed for an average of at least 30 hours per week during the year
19 for one of the following reasons:

20 (C) the employee’s pregnancy;

21 (D) recovery from childbirth or miscarriage;

1 (A)(E) the birth of the employee’s child and to care for or bond with
2 the qualified individual’s child within one-year after the child’s birth; or

3 (B)(F) the initial placement of a child ~~46~~ 18 years of age or younger
4 with the employee for the purpose of adoption or foster care and to care for or
5 bond with the child within one year after the placement for adoption or foster
6 care.

7 (6) “Family member” means:

8 (A) regardless of age, an employee’s biological, adopted, or foster
9 child; an employee’s stepchild or legal ward; a child of the employee’s spouse
10 or civil union or domestic partner; a child to whom the employee stands in loco
11 parentis; or an individual to whom the employee stood in loco parentis when
12 the individual was under 18 years of age;

13 (B)(i) a parent of an employee or an employee’s spouse or civil union
14 or domestic partner, regardless of whether the relationship to the employee or
15 employee’s spouse or civil union or domestic partner is a biological, foster,
16 adoptive, or step relationship;

17 (ii) a legal guardian of an employee or employee’s spouse or civil
18 union or domestic partner; or

19 (iii) a person who stood [or stands] in loco parentis when the
20 employee or employee’s spouse or civil union or domestic partner was under
21 18 years of age;

1 (C) A person to whom the employee is legally married under the laws
2 of any state or a civil union or domestic partner of an employee;

3 (D) A grandparent, grandchild, or sibling of the employee or the
4 employee’s spouse or civil union or domestic partner, regardless of whether
5 the relationship to the employee or the employee’s spouse or civil union or
6 domestic partner is a biological, foster, adoptive, or step relationship [discuss
7 grandparent who stood in loco parentis?]; or

8 (E) As shown by the employee, any other individual with whom the
9 employee has a significant personal bond that is or is like a family relationship,
10 regardless of biological or legal relationship under the totality of the
11 circumstances surrounding the relationship, including:

12 (i) evidence of shared financial responsibility, such as a shared
13 lease, common ownership of property, joint liability for bills, and beneficiary
14 designations;

15 (ii) evidence of responsibility for the other’s personal wellbeing,
16 including emergency contact designations or an advance directive, as that term
17 is defined pursuant to 18 V.S.A. § 9701;

18 (iii) evidence showing an expectation of care created by the
19 relationship, the prior provision of care, or both;

20 (iv) cohabitation for a period of at least six months or geographic
21 proximity; and

1 (v) other similar evidence demonstrating a significant personal bond.

2 (7) “In loco parentis” means a relationship in which an individual has
3 day-to-day responsibilities to care for and financially support a child.

4 ~~(5)~~(8) “Serious illness or injury” means an accident, injury, disease, or
5 physical or mental condition that:

6 (A) poses imminent danger of death;

7 (B) requires inpatient care in a hospital; or

8 (C) requires continuing in-home care under the direction of a
9 physician health care provider?; or

10 (D) rehabilitation from an accident, disease, injury, or physical or
11 mental condition that satisfies (A), (B), or (C).

12 [Alternative 1] (22) “Serious health condition” means an illness, injury,
13 impairment, or physical or mental condition that involves:

14 (A) inpatient care in a hospital, hospice, or residential medical care
15 facility; or

16 (B) continuing treatment by a health care provider. [requires
17 additional definition of health care provider]

18 [Alternative 2] (22) “Serious health condition” has the same meaning as
19 in 29 U.S. C. § 2611(11).

20 Sec. 2. 21 V.S.A. § 472 is amended to read:

21 § 472. LEAVE

1 (a) During any 12-month period, an employee shall be entitled to take
2 unpaid leave for a period not to exceed 12 weeks:

3 ~~(1) for parental leave, during the employee's pregnancy and following~~
4 ~~the birth of an employee's child or within a year following the initial~~
5 ~~placement of a child 16 years of age or younger with the employee for the~~
6 ~~purpose of adoption.~~

7 ~~(2) for family leave, for the serious illness of the employee or the~~
8 ~~employee's child, stepchild or ward of the employee who lives with the~~
9 ~~employee, foster child, parent, spouse, or parent of the employee's spouse.~~

10 (b) During the leave, at the employee's option, the employee may use
11 accrued sick leave ~~or~~, vacation leave ~~or~~, any other accrued paid leave, ~~not to~~
12 ~~exceed six weeks~~ Family and Medical Leave Insurance benefits pursuant to
13 chapter 26 of this Title, or short-term disability insurance or other insurance
14 benefits. Utilization of accrued paid leave, Family and Medical Leave
15 Insurance benefits, or insurance benefits shall not extend the leave provided
16 herein by this section.

17 * * *

18 (d) The employer shall post and maintain in a conspicuous place in and
19 about each of ~~his or her~~ its places of business printed notices of the provisions
20 of this subchapter on forms provided by the Commissioner of Labor.

1 (e)(1) An employee shall give the employee's employer reasonable written
2 notice of intent to take family leave under this subchapter. Notice shall include
3 the date the leave is expected to commence and the estimated duration of the
4 leave.

5 (2) In the case of the adoption or birth of a child, an employer shall not
6 require that notice be given more than six weeks prior to the anticipated
7 commencement of the leave.

8 (3) In the case of an unanticipated serious illness or injury, a
9 miscarriage, or a premature birth, the employee shall give the employer notice
10 of the commencement of the leave as soon as practicable.

11 (4) In the case of serious illness or injury of the employee or a member
12 of the employee's family, an employer may require certification from a
13 physician to verify the condition and the amount and necessity for the leave
14 requested.

15 (5) An employee may return from leave earlier than estimated upon
16 approval of the employer.

17 (6) An employee shall provide reasonable notice to the employer of ~~his~~
18 ~~or her~~ the need to extend leave to the extent provided by this chapter.

19 (f) Upon return from leave taken under this subchapter, an employee shall
20 be offered the same or comparable job at the same level of compensation,
21 employment benefits, seniority, or any other term or condition of the

1 employment existing on the day leave began. This ~~subchapter~~ subsection shall
2 not apply if, prior to requesting leave, the employee had been given notice or
3 had given notice that the employment would terminate. This subsection shall
4 not apply if the employer can demonstrate by clear and convincing evidence
5 that:

6 (1) during the period of leave the employee’s job would have been
7 terminated or the employee laid off for reasons unrelated to the leave or the
8 condition for which the leave was granted; or

9 (2) the employee performed unique services and hiring a permanent
10 replacement during the leave, after giving reasonable notice to the employee of
11 intent to do so, was the only alternative available to the employer to prevent
12 substantial and grievous economic injury to the employer’s operation.

13 (g) An employer may adopt a leave policy more generous than the leave
14 policy provided by this subchapter. Nothing in this subchapter shall be
15 construed to diminish an employer’s obligation to comply with any collective
16 bargaining agreement or any employment benefit program or plan ~~which~~ that
17 provides greater leave rights than the rights provided by this subchapter. A
18 collective bargaining agreement or employment benefit program or plan may
19 not diminish rights provided by this subchapter. ~~Notwithstanding the~~
20 ~~provisions of this subchapter, an employee may, at the time a need for parental~~
21 ~~or family leave arises, waive some or all the rights under this subchapter~~

1 ~~provided the waiver is informed and voluntary and any changes in conditions~~
2 ~~of employment related to any waiver shall be mutually agreed upon between~~
3 ~~employer and employee.~~

4 (h) Except for serious illness of the employee, an employee who does not
5 return to employment with the employer who provided the family leave shall
6 return to the employer the value of any compensation that the employer paid to
7 or on behalf of the employee during the leave, except payments for accrued
8 ~~sick leave or vacation~~ leave. An employer may elect to waive the rights
9 provided pursuant to this subsection.

10 **Sec. 3.** 21 V.S.A. § 472d is added to read:

11 § 472d. SAFE LEAVE

12 (a) As used in this section:

13 (1) “Domestic partner” has the same meaning as in 17 V.S.A. § 2414.

14 (2) “Domestic violence” has the same meaning as in 15 V.S.A. § 1151.

15 (3) “Employer” means any person who employs one or more individuals
16 in Vermont. [Discuss possible phase in from 10 or 15 employee threshold]

17 (4) “Employee” means a person who either:

18 (A) in consideration of direct or indirect gain or profit, has been
19 continuously employed by the same employer for a period of six months for an
20 average of at least 20 hours per week; or

1 (B) is employed by an employer and, during at least two of the last
2 four completed calendar quarters, has received payments with respect to
3 services performed for the employer from which the employer is required to
4 withhold Vermont income tax pursuant to 32 V.S.A. chapter 151, subchapter 4.

5 [Delay effective date of subdivision to October 1, 2026?]

6 (5) “Sexual assault” has the same meaning as in 15 V.S.A. § 1151.

7 (6) “Stalking” has the same meaning as in 15 V.S.A. § 1151.

8 (b)(1) In addition to any other leave provided pursuant to this subchapter,
9 an employee shall be entitled to take up to 12 weeks of leave in a 12-month
10 period if:

11 (A) the employee or the employee’s family member is a victim of
12 domestic violence, sexual assault, or stalking;

13 (B) the employee is using the leave for one of the following reasons
14 related to the domestic violence, sexual assault, or stalking:

15 (i) to seek or obtain medical care, counseling, or social or legal
16 services, either for themselves or for a family member;

17 (ii) to recover from injuries;

18 (iii) to participate in safety planning, either for themselves or for a
19 family member;

20 (iv) to relocate or secure safe housing, either for themselves or for
21 a family member; or

1 (v) to meet with a State’s Attorney or law enforcement officer;

2 and

3 (C) the employee is not the alleged perpetrator of the domestic
4 violence, sexual assault, or stalking.

5 (2)(A) An employee may use the leave provided pursuant to this
6 subsection (b) intermittently.

7 (B) An employee who uses leave intermittently shall be entitled to
8 take leave in increments of not less than one day. [Committee discussion of
9 minimum increment]

10 (c) During the leave, at the employee’s option, the employee may use
11 accrued paid leave, Family and Medical Leave Insurance benefits pursuant to
12 chapter 26 of this Title, or short-term disability insurance or other insurance
13 benefits. Use of accrued paid leave shall not extend the leave provided
14 pursuant to this section.

15 (d)(1)(A) If the need for a leave pursuant to this section is foreseeable, the
16 employee shall provide the employer with written notice of the need for the
17 leave as soon as practicable. [Include max number of days?]

18 (B) An employee shall not be required to provide advance notice of
19 the need for leave caused by an emergency or other unforeseen event but shall
20 instead notify the employer that the leave was taken or is being taken within
21 three business days after commencing the leave.

1 (2)(A) An employer may require an employee to provide documentation
2 of the need for the leave. An employee may provide documentation from any
3 one of the following sources:

4 (i) a court or a law enforcement or other government agency;

5 (ii) a domestic violence, sexual assault, or stalking assistance
6 program;

7 (iii) a legal, clerical, medical, or other professional from whom the
8 employee, or the employee's family member, received counseling or other
9 assistance concerning domestic violence, sexual assault, or stalking; or

10 (iv) a self-certification of the employee's, or the employee's
11 family member's, status as a victim of domestic violence, sexual assault, or
12 stalking, signed under penalty of perjury, on a standard form adopted for that
13 purpose by:

14 (I) a federal or State government entity, including the Vermont
15 Department for Children and Families; or

16 (II) a nonprofit organization that provides support services to
17 protected tenants.

18 (B) An employer shall not disclose any information received
19 pursuant to this subdivision (d)(2) except to the extent:

20 (i) consented to by the employee in writing;

21 (ii) required pursuant to a court order; or

1 (iii) required pursuant to State or federal law.

2 (e) The employer shall continue employment benefits for the duration of a
3 leave taken pursuant to this section at the level and under the conditions
4 coverage would be provided if the employee continued in employment
5 continuously for the duration of the leave. The employer may require that the
6 employee contribute to the cost of benefits during the leave at the existing rate
7 of employee contribution.

8 (f) An employer shall post and maintain in a conspicuous place in and
9 about each of its places of business printed notices of the provisions of this
10 section on forms provided by the Commissioner of Labor.

11 (g)(1) Upon return from leave taken under this section, an employee shall
12 be offered the same or comparable job at the same level of compensation,
13 employment benefits, seniority, and any other term or condition of the
14 employment existing on the day leave began.

15 (2) This subsection shall not apply if, prior to requesting leave, the
16 employee had been given notice or had given notice that the employment
17 would terminate.

18 (3) This subsection shall not apply if the employer can demonstrate by
19 clear and convincing evidence that during the period of leave the employee's
20 job would have been terminated or the employee would have been laid off for
21 reasons unrelated to the leave or the reason for which the leave was taken.

1 (h)(1) An employer may adopt a leave policy more generous than the leave
2 provided by this section.

3 (2) Nothing in this section shall be construed to diminish an employer’s
4 obligation to comply with any collective bargaining agreement or any
5 employment benefit program or plan that provides greater leave rights than the
6 rights provided by this section.

7 (3) A collective bargaining agreement or employment benefit program
8 or plan shall not diminish the rights provided by this section.

9 Sec. 4. 21 V.S.A. chapter 26 is added to read:

10 CHAPTER 26. FAMILY AND MEDICAL LEAVE INSURANCE

11 § 2051. DIVISION OF FAMILY AND MEDICAL LEAVE; DIRECTOR

12 (a) The Division of Family and Medical Leave is established in the Office
13 of the Treasurer to administer the Family and Medical Leave Insurance
14 Program established pursuant to this chapter.

15 (b)(1) The Treasurer shall appoint a Director of the Division. The Director
16 shall be a full-time State employee and exempt from the classified system and
17 shall serve at the pleasure of the Treasurer.

18 (2) The Director shall be responsible for:

19 (A) the operation and supervision of the Division of Family and
20 Medical Leave;

1 (B) the implementation of this chapter and any rules adopted
2 pursuant to section 2064 of this chapter; and

3 (C) employing staff as necessary to implement and carry out the
4 provisions of this chapter.

5 § 2052. FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM;

6 SPECIAL FUND

7 (a) The Family and Medical Leave Insurance Program is established within
8 the Division of Family and Medical Leave for the provision of Family and
9 Medical Leave Insurance benefits to qualified individuals pursuant to the
10 provisions of this chapter.

11 (b) The Family and Medical Leave Insurance Special Fund is created
12 pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund may be expended by
13 the Director and the Commissioner of Taxes for the administration of the
14 Family and Medical Leave Insurance Program, for the payment of benefits
15 provided pursuant to the provisions of this chapter, and for necessary costs
16 incurred in administering the Fund. All interest earned on Fund balances shall
17 be credited to the Fund.

18 (c) The Fund shall consist of:

19 (1) contributions collected pursuant to section 2054 of this chapter;

20 (2) amounts recovered or collected pursuant to sections 2062 and 2063
21 of this chapter; and

1 (3) any amounts appropriated to the Fund.

2 (d) The Director may seek and accept gifts, donations, and grants from any
3 source, public or private, to be dedicated for deposit into the Fund. [Committee
4 discussion]

5 § 2053. CONTRIBUTIONS; RATE; COLLECTION

6 (a) The following contribution rates shall apply to employees and enrolled
7 self-employed individuals.

8 (1)(A) Contributions for employees shall equal 0.55 percent of each
9 employee's covered wages.

10 (B) Employers shall be responsible for one-half of the contribution
11 amount and employees shall be responsible for the remaining half.

12 (C) Employers shall deduct and withhold from each employee's
13 covered wages the employee's portion of the contributions due.

14 (D) In lieu of deducting and withholding the full amount of the
15 employee's portion of the contribution, an employer may elect to pay some or
16 all of the employee's portion of the contributions.

17 [ALTERNATIVE] (B) An employer may deduct and withhold up to
18 one half of the contribution required for each employee from the employee's
19 covered wages and shall remit the full amount of the contribution required for
20 the employee to the Department of Taxes pursuant to the provisions of
21 subsection (c) of this section.

1 (E) As used in this subdivision (1), the term “covered wages” means
2 all wages paid to an employee by an employer up to an amount equal to two
3 times the maximum Social Security Contribution and Benefit Base.

4 (2)(A) Contributions from enrolled self-employed individuals shall
5 equal 0.55 percent of each enrolled self-employed individual’s covered work
6 income.

7 (B) As used in this subdivision (2), the term “covered work income”
8 means self-employment work income earned by an enrolled self-employed
9 individual in Vermont up to an amount equal to two times the maximum Social
10 Security Contribution and Benefit Base.

11 (b)(1) Notwithstanding subsection (a) of this section, the General Assembly
12 shall annually establish the rate of contribution for the next calendar year. The
13 rate shall generate contributions in an amount equal to the sum of the projected
14 amount necessary to provide benefits pursuant to this chapter during the next
15 calendar year plus a reserve equal to at least nine months of the projected
16 benefit payments for the next calendar year plus the projected cost to
17 administer the Program during the next calendar year minus any balance in the
18 Fund from the prior calendar year.

19 (2) On or before February 1 of each year, the Director shall report to the
20 General Assembly the rate necessary to generate contributions in an amount
21 equal to the sum of the projected amount necessary to provide benefits

1 pursuant to this chapter during the next calendar year plus a reserve equal to at
2 least nine months of the projected benefit payments for the next calendar year
3 plus the projected cost to administer the Program during the next calendar year
4 minus any balance in the Fund from the prior calendar year.

5 (3) In the event that the General Assembly does not establish the
6 contribution rate for the next calendar year pursuant to subdivision (1) of this
7 subsection (b), the rate shall remain unchanged from the prior calendar year.

8 [ALTERNATIVE](b)(1) Annually, on or before October 1, the Director
9 shall establish the rate of contribution for the coming year. The Director shall
10 annually set the rate so that it generates contributions in an amount equal to the
11 sum of the projected amount necessary to provide benefits pursuant to this
12 chapter during the next calendar year plus a reserve equal to at least nine
13 months of the projected benefit payments for the next calendar year plus the
14 projected cost to administer the Program during the next calendar year minus
15 any balance projected to be remaining in the Fund from the prior calendar year.

16 (2) The rate of contribution shall be the same for the covered wages of
17 employees and the covered work income of enrolled self-employed
18 individuals, and shall not exceed one percent.

19 (3) In the event that the Director determines that the rate of contribution
20 for any calendar year shall be one percent, the Director shall, not more than 14
21 days after making the determination, submit a written report to the Joint Fiscal

1 Committee, the House Committees on Appropriations, on General and
2 Housing, and on Ways and Means, and the Senate Committees on
3 Appropriations, on Economic Development, Housing and General Affairs, and
4 on Finance the provides a detailed explanation of the reason for the increase,
5 whether the rate is sufficient to pay the projected benefits and administrative
6 costs during the next calendar year while maintaining the required reserve, the
7 solvency of the Fund, and recommended legislative action to reduce the rate of
8 contribution in the following calendar year.

9 (c)(1) The Commissioner of Taxes shall collect the contributions required
10 pursuant to this section and shall deposit them into the Fund.

11 (2)(A) Employers shall withhold contributions pursuant to subdivision
12 (a)(1) of this section from wages that employers pay to employees as if the
13 contributions were Vermont income tax subject to the withholding
14 requirements of 32 V.S.A. chapter 151, subchapter 4. The administrative and
15 enforcement provisions of 32 V.S.A. chapter 151 shall apply to the
16 contribution and withholding requirements under this section as if the
17 contributions due pursuant to subdivision (a)(1) of this section were Vermont
18 income tax.

19 (B) Employers shall be responsible for the full amount of any unpaid
20 contributions due pursuant to subdivision (a)(1) of this section.

1 (3) Enrolled self-employed individuals shall make installment payments
2 of estimated contributions pursuant to subdivision (a)(2) of this section from
3 the enrolled self-employed individual’s covered work income as if the
4 contributions were Vermont income tax subject to the estimated payment
5 requirements of 32 V.S.A. chapter 151, subchapter 5. The administrative and
6 enforcement provisions of 32 V.S.A. chapter 151 shall apply to the estimated
7 payment requirement under this section as if the contributions due pursuant to
8 subdivision (a)(2) of this section were Vermont income tax.

9 (d) An employer with an approved private plan pursuant to section 2060 of
10 this chapter shall not be required to withhold and pay contributions pursuant to
11 this section.

12 § 2054. BENEFITS

13 (a)(1) A qualified individual shall be permitted to receive a total of not
14 more than 12 weeks of benefits in a 12-month period for family and medical
15 leave and safe leave taken by the employee.

16 (2) A qualified individual may use up to two out of the 12 weeks of
17 benefits available to the individual during a 12-month period for bereavement
18 leave.

19 (b) A qualified individual awarded benefits under this section shall receive
20 100 percent of the individual’s average weekly earnings or an amount equal to

1 the State average weekly wage determined pursuant to section 1338 of this
2 title, whichever is less.

3 (c) A qualified individual may receive benefits for an intermittent leave or
4 leave for a portion of a week. The benefit amount for an intermittent leave or
5 leave for a portion of a week shall be calculated in increments of one full day
6 or one-fifth of the qualified individual’s weekly benefit amount.

7 (d) Benefits paid pursuant to this chapter may be used as wage replacement
8 for a leave taken pursuant to sections 472 and 472d of this title or the federal
9 Family and Medical Leave Act, 29 U.S.C. §§ 2611–2654. The receipt of
10 benefits paid pursuant to this chapter shall not extend the leave provided
11 pursuant to sections 472 and 472d of this title or the federal Family and
12 Medical Leave Act.

13 **§ 2055. ELIGIBILITY**

14 An individual shall be eligible to receive benefits pursuant to the provisions
15 of this chapter during any week in which:

16 (1) the individual is an employee or an enrolled self-employed individual
17 who:

18 (A) earned wages from which contributions were withheld pursuant
19 to section 2054 of this chapter in two of the last four calendar quarters;

20 (B) made contributions to the Fund on covered work income that was
21 earned during two of the last four calendar quarters; or

1 (C) both;

2 (2) the individual **is unable to work because the individual:**

3 (A) has a serious illness or injury;

4 (B) is caring for a family member with a serious illness or injury;

5 (C) is pregnant;

6 **(D) is recovering from childbirth or miscarriage;**

7 **(E) is caring for a new child during the first year following the birth,**
8 adoption, or placement for foster care of that child;

9 **(F) is taking safe leave; or**

10 **(G) is taking a bereavement leave; and**

11 (3) the Director determines that the individual is not disqualified
12 pursuant to section 2066 of this chapter.

13 **§ 2056. APPLICATION FOR BENEFITS**

14 (a)(1) An employee or enrolled self-employed individual, or the
15 employee's or enrolled self-employed individual's agent, may apply for
16 benefits pursuant to this chapter by filing an application with the Division in a
17 form approved by the Director.

18 (2) An employee or enrolled self-employed individual, or the
19 employee's or enrolled self-employed individual's agent, shall, to the extent
20 possible, submit documentation of the need for the leave together with the

1 application filed pursuant to subdivision (1) or this subsection. The Director
2 shall specify acceptable forms of documentation on the application form.

3 (b)(1) The Division shall review each application and any accompanying
4 documentation and determine if the employee or enrolled self-employed
5 individual is eligible to receive benefits pursuant to section 2055 of this
6 chapter not later than five business days after the date the application is filed
7 with the Division.

8 (2) Notwithstanding subdivision (1) of this subsection, the Director may
9 extend the time in which to make a determination by not more than 15 business
10 days if necessary to obtain documents or information that are needed to make
11 the determination.

12 (c) An employee or enrolled self-employed individual may file an
13 application for benefits up to 60 calendar days before an anticipated family and
14 medical leave, safe leave, or bereavement leave or, in the event of a premature
15 birth, an unanticipated serious illness, safe leave or, the death of a family
16 member within 60 calendar days after commencing a family and medical
17 leave, safe leave, or bereavement leave.

18 **§ 2057. PAYMENT OF BENEFITS; TAX WITHHOLDING**

19 (a) Benefits shall be paid to a qualified individual for the time period
20 beginning on the day the qualified individual's leave began.

1 (b) A qualified individual's first benefit payment shall be sent within 14
2 calendar days after the qualified individual's claim is approved or the
3 individual's leave begins, whichever is later, and subsequent payments shall be
4 sent biweekly.

5 (c)(1) Except as otherwise provided pursuant to section 2062 of this
6 chapter and subdivision (2) and (3) of this subsection, benefits paid pursuant to
7 the provisions of this chapter shall not be assignable before payment and shall
8 be exempt from all claims of creditors, and from levy, execution, attachment,
9 trustee process, and any other remedy provided for the recovery or collection
10 of a debt.

11 (2)(A) An individual filing a new claim for benefits pursuant to this
12 chapter shall, at the time of filing, notify the Division of whether the individual
13 owes child support obligations.

14 (B) If an individual who owes child support obligations is determined
15 to be eligible for benefits pursuant to this chapter, the Director shall notify the
16 state or local child support enforcement agency enforcing the obligation that
17 the individual has been determined to be eligible for benefits.

18 (C) The Director shall deduct and withhold from the benefits payable
19 to the individual pursuant to this chapter and remit to the appropriate child
20 support enforcement agency:

1 (i) an amount specified pursuant to an agreement under 42 U.S.C.

2 § 654(19)(B)(i);

3 (ii) an amount required to be deducted and withheld from the
4 benefits pursuant to a court order; or

5 (iii) if neither subdivisions (i) or (ii) of this subdivision (c)(2)(C)
6 are applicable, an amount specified by the individual.

7 (D) As used in this subdivision (c)(2):

8 (i) “Child support obligation” means obligations to pay child
9 support that are enforced pursuant to a plan described in 42 U.S.C. § 654 that
10 has been approved by the Secretary of Health and Human Services.

11 (ii) “Child support agency” means an agency of a state or political
12 subdivision that is operated pursuant to a plan described in 42 U.S.C. § 654
13 that has been approved by the Secretary of Health and Human Services.

14 (3) If an individual has outstanding Vermont State tax liability, the
15 Director shall deduct and withhold the outstanding amount from the benefits
16 payable to the individual pursuant to this chapter and remit it to the
17 Commissioner of Taxes.

18 (d)(1) An individual filing a claim for benefits pursuant to this chapter
19 shall, at the time of filing, be advised that Family and Medical Leave Insurance
20 benefits may be subject to income tax and that the individual’s benefits may be
21 subject to withholding.

1 (2) All procedures specified by 26 U.S.C. chapter 24 and 32 V.S.A.
2 chapter 151, subchapter 4 pertaining to the withholding of income tax shall be
3 followed in relation to the payment of benefits.

4 § 2058. ELECTIVE COVERAGE

5 (a) A self-employed individual may elect to obtain coverage through the
6 Program for an initial period of three years by filing a notice of the election
7 with the Division on a form provided by the Director.

8 (b) A self-employed individual who elects to obtain coverage pursuant to
9 this section shall agree as a condition of obtaining coverage to provide to the
10 Director and the Commissioner of Taxes any documentation of the self-
11 employed individual’s work income and any related information that the
12 Director, in consultation with the Commissioner of Taxes, determines is
13 necessary.

14 (c)(1) An enrolled self-employed individual may terminate the coverage at
15 the end of the initial three-year period by providing the Director with written
16 notice of the termination at least 30 calendar days before the end of the period.

17 (2) An enrolled self-employed individual who does not terminate
18 coverage at the end of the initial three-year period may terminate the coverage
19 at the end of any succeeding annual period by providing the Director with
20 written notice of the termination at least 30 calendar days before the end of the
21 period.

1 (3) Notwithstanding subdivisions (1) and (2) of this subsection, an
2 enrolled self-employed individual who becomes an employee or stops working
3 in Vermont may elect to terminate coverage pursuant to this section by
4 providing the Director with 30 **calendar** days' written notice in accordance
5 with rules adopted by the Director.

6 (d) Nothing in this section shall be construed to prevent an individual who
7 is both an employee and a self-employed individual from electing to obtain
8 coverage pursuant to this section.

9 **§ 2059. EMPLOYER OPTION; PRIVATE PLAN**

10 (a)(1) As an alternative to and in lieu of participating in the Program, an
11 employer may, upon approval by the **Director**, comply with the requirements
12 of this chapter through a private plan that provides to all of its employees
13 benefits that are **equivalent[equal]** to or more generous than the benefits
14 provided pursuant to this chapter.

15 **(2)** An employer may elect to provide such benefits by:

16 **(A) establishing and maintaining to the satisfaction of the Director**
17 **necessary self-insurance; or**

18 **(B) purchasing insurance coverage from an insurance carrier**
19 **authorized to provide family and medical leave insurance in this State.**

20 (b)(1) The **Director shall** approve a private plan under this section upon
21 making a determination that it

1 (A) provides benefits that are equivalent[equal] to or more generous
2 than the benefits provided pursuant to this chapter;

3 (B) provides coverage for all employees who would otherwise be
4 eligible for benefits pursuant to this chapter;

5 (C) costs employees the same or less than the employees' portion of
6 the contribution would be pursuant to subsection 2054(a) of this chapter;

7 (D) provides coverage for all forms of leave for which benefits may
8 be paid pursuant to this chapter;

9 (E) provides wage replacement in an amount that is equal to or
10 greater than the rate of wage replacement provided pursuant to section 2055 of
11 this chapter;

12 (F) imposes no additional restrictions or conditions on the use of paid
13 leave benefits beyond the restrictions and conditions that are established
14 pursuant to this chapter and the rules adopted by the Director; and

15 (G) satisfies any additional requirements established in rules adopted
16 by the Director in consultation with the Commissioner of Financial Regulation.

17 (2)(A) Nothing in this section shall be construed to require the benefits
18 provided by a private insurance or benefit plan to be identical to the benefits
19 provided pursuant to this chapter.

20 (B) If the benefits provided by a proposed private plan differ from the
21 benefits provided pursuant to this chapter, the Commissioner shall determine

1 whether the benefits provided by a proposed private plan are equivalent to or
2 more generous than the benefits provided pursuant to this chapter by weighing
3 the relative value of the private plan’s length of leave, wage replacement, and
4 cost to employees against the provisions of this chapter [Discuss whether to
5 replace with “equal to or greater”].

6 (c)(1)(A) An employer shall submit an application to the Director for
7 approval of a new or modified private plan on or before October 15 of the
8 calendar year prior to when it is proposed to take effect.

9 (B) The Director shall make a determination and notify the employer
10 of whether its application has been approved on or before December 1. If the
11 application is approved, the Director shall also provide a copy of the notice to
12 the Commissioner of Taxes on or before December 1.

13 (2) Following the approval of its private plan, an employer shall cease to
14 participate in the Program beginning on the next January 1 and the approval
15 shall remain in effect until it is terminated pursuant to subdivision (3) of this
16 subsection.

17 (3) An employer with an approved private plan may terminate the
18 approval effective January 1 of any year by filing notice of termination with
19 the Director and the Commissioner of Taxes on or before November 1 of the
20 prior year.

1 (d) A contested determination or a denial of benefits under a private plan
2 approved pursuant to this section shall be subject to appeal pursuant to section
3 2061 of this chapter.

4 (e)(1) The Director may terminate the approval of a private plan approved
5 pursuant to this section if the Director determines that the terms and conditions
6 of the plan have been violated, including if the plan:

7 (A) fails to pay benefits in a timely manner or in a manner that is
8 consistent with the plan’s terms;

9 (B) misuses private plan funds;

10 (C) fails to submit required reports to the Director; or

11 (D) fails to comply with any applicable provisions of law or with
12 rules adopted by the Director.

13 (2) The Director shall provide notice to the employer of the proposed
14 termination that includes the date on which the approval will terminate and the
15 reason for the termination.

16 (3) An employer may appeal the termination to the Director in
17 accordance with rules adopted by the Director.

18 (f) Each employee covered by an approved private plan on the date it is
19 terminated shall, for purposes of determining eligibility for benefits pursuant to
20 the provisions of this chapter, be treated as if the employer had paid
21 contributions for that employee pursuant to the provisions of section 2053 of

1 this chapter throughout the period of the employee’s employment with the
2 employer.

3 **§ 2060.** APPEALS

4 (a)(1) An employer or individual aggrieved by a decision of the Director
5 relating to eligibility for benefits, the amount of benefits that a qualified
6 individual is entitled to receive, or the amount of contributions due may file
7 with the Director a petition for reconsideration within 30 calendar days after
8 receipt of the decision. The petition shall set forth in detail the grounds upon
9 which it is claimed that the decision is erroneous and may include materials
10 supporting that claim.

11 (2) If an employer petitions the Director to reconsider a decision relating
12 to an application for benefits or the amount of benefits that a qualified
13 individual is entitled to receive, the Director shall promptly notify the
14 individual who applied for the benefits of the petition by ordinary, certified, or
15 electronic mail and provide the individual with an opportunity to file an answer
16 to the employer’s petition.

17 (3) The Director shall promptly notify the employer or individual, or
18 both, as appropriate, of the Director’s decision by ordinary, certified, or
19 electronic mail.

1 (b) An employer or individual aggrieved by the Director’s decision on
2 reconsideration may file an appeal with the Supreme Court within 30 **calendar**
3 days after receiving the decision.

4 (c) Any determination, redetermination, finding of fact, conclusion of law,
5 decision, order, or judgment entered or made pursuant to this section shall only
6 be binding on the Division and all parties in that proceeding and is not binding,
7 conclusive, or admissible in any separate or subsequent action between an
8 individual and any other party brought before an arbitrator, court, or judge of
9 this State or of the United States, regardless of whether the prior proceeding
10 was between the same or related parties or involved the same facts.

11 **§ 2061. FALSE STATEMENT OR REPRESENTATION; PENALTY**

12 (a)(1) An individual who intentionally makes a false statement or
13 representation for the purpose of obtaining any benefit or payment or to avoid
14 payment of any required contributions under the provisions of this chapter,
15 whether for themselves or for any other person, after notice and opportunity for
16 hearing, shall be prohibited from receiving benefits pursuant to this chapter for
17 a period of not less than one year and not more than three years as determined
18 to be appropriate by the Director.

19 (2) The penalty imposed pursuant to this section shall be in addition to
20 any liability incurred by the individual pursuant to section 2063 of this chapter.

1 (b) A person who intentionally makes a false statement to avoid payment of
2 any required contributions under the provisions of this chapter shall, after
3 notice and an opportunity for a hearing, be liable for:

4 (1) the full amount of unpaid contributions; and

5 (2) an administrative penalty of not more than \$5,000.00.

6 (c)(1) The administrative penalty imposed pursuant to subsection (b) of this
7 section may be collected in a civil action in Superior Court brought in the
8 name of the Director. If the action is successful, the Director shall be entitled
9 to recover the Division's costs and reasonable attorney's fees incurred in
10 bringing the action.

11 (2) Any amounts recovered and any penalties collected pursuant to this
12 section shall be deposited in the Fund.

13 **§ 2062. OVERPAYMENT OF BENEFITS; COLLECTION**

14 (a)(1) Any individual who by nondisclosure or misrepresentation of a
15 material fact, by either the individual or another person, receives benefits that
16 the individual is not eligible to receive shall be liable to repay to the Division
17 the amount received in excess of the amount, if any, that the individual is
18 eligible to receive.

19 (2)(A) Notwithstanding the provisions of subdivision (1) of this
20 subsection an individual shall not be liable to repay an overpayment of benefits

1 in an amount equal to \$X,XXX.00 or less that is caused by the Division's
2 mistake or an unintentional error or omission by another person.

3 (B) Notwithstanding the provisions of subdivision (1) of this
4 subsection, the Commissioner may waive an overpayment in an amount that is
5 greater than \$X,XXX.00 if it was:

6 (i) caused by the Division's mistake or an unintentional error or
7 omission by another person; and

8 (ii) the Director determines that requiring repayment would be
9 against equity and good conscience.

10 (3) Upon determining that an individual is liable for an overpayment of
11 benefits pursuant to subdivision (1) of this subsection, the Director shall
12 provide the individual with notice of the determination. The notice shall
13 include a statement that the individual is liable to repay to the Division the
14 amount of overpaid benefits and shall identify the basis of the overpayment
15 and the time period in which the benefits were paid. The notice shall also
16 provide information regarding the individual's right to appeal the
17 determination pursuant to the provisions of section 2061 of this chapter.

18 (4) The determination shall be made within not more than three years
19 after the date of the overpayment.

20 (b)(1) An individual liable under this section shall repay the overpaid
21 amount to the Director for deposit into the Fund.

1 (2) The Director may collect the amounts due under this section in a
2 civil action in the Superior Court.

3 (3) An individual may, at any time, request that the Director reduce or
4 waive the amount for which the individual is liable pursuant to subsection (a)
5 of this section. Upon receipt of a request, the Director may reduce or waive
6 the amount for which an individual is liable for good cause or as the Director
7 deems appropriate and just.

8 (c) If an individual is liable to repay any amount pursuant to this section,
9 the Director may withhold, in whole or in part, any future benefits payable to
10 the individual pursuant to this chapter and credit the withheld benefits against
11 the amount due from the individual until it is repaid in full.

12 (d) In addition to the remedy provided pursuant to this section, an
13 individual who intentionally misrepresented or failed to disclose a material fact
14 with respect to the individual's claim for benefits may be subject to the
15 penalties provided pursuant to section 2062 of this chapter.

16 § 2063. RULEMAKING

17 (a) The Commissioner of Taxes, in consultation with the Director, shall
18 adopt rules as necessary to implement the provisions of this chapter related to
19 the collection of contributions pursuant to section 2053 of this chapter and the
20 provision of refunds pursuant to section 2069 of this chapter.

1 (b) The Commissioner of Financial Regulation, in consultation with the
2 Director, shall adopt rules related to the approval of private plans pursuant to
3 section 2060 of this chapter. [Delete?]

4 (c) The Director shall adopt rules as necessary to implement all other
5 provisions of this chapter.

6 **§ 2064. CONFIDENTIALITY OF INFORMATION**

7 (a) Information obtained from an employer or individual in the
8 administration of this chapter and determinations of an individual's right to
9 receive benefits that reveal an employer's or individual's identity in any
10 manner shall be kept confidential and shall be exempt from public inspection
11 and copying under the Public Records Act. Such information shall not be
12 admissible as evidence in any action or proceeding other than one brought
13 pursuant to the provisions of this chapter.

14 (b) Notwithstanding subsection (a) of this section:

15 (1) an individual or the individual's agent may be provided with
16 information to the extent necessary for the proper presentation of the
17 individual's claim for benefits or to inform the individual of the individual's
18 existing or prospective rights to benefits; and

19 (2) an employer may be provided with information that the Director or
20 the Commissioner of Financial Regulation or of Taxes determines is necessary

1 to enable the employer to discharge fully its obligations and protect its rights
2 under this chapter.

3 **§ 2065. DISQUALIFICATIONS**

4 An individual shall be disqualified from receiving benefits for any week in
5 which the individual has received:

6 (1)(A) compensation for temporary total disability under the workers’
7 compensation law of any state or under a similar law of the United States; or

8 (B) compensation for temporary partial disability related to the
9 serious illness or injury for which the individual is seeking benefits pursuant to
10 this chapter;

11 (2) unemployment compensation benefits under the law of any state

12 (3) wages; or

13 (4) remuneration for vacation leave, sick leave, or any other accrued
14 paid leave.

15 **§ 2066. PROTECTION FROM RETALIATION OR INTERFERENCE**

16 (a) An employer shall not discharge or in any other manner retaliate against
17 an employee who exercises or attempts to exercise the rights provided pursuant
18 to this chapter. The provisions against retaliation in subdivision 495(a)(8) of
19 this title shall apply to this chapter.

1 (b) An employer shall not interfere with, restrain, or otherwise prevent an
2 employee from exercising or attempting to exercise the employee’s rights
3 pursuant to this chapter.

4 (c) An employer shall not treat any leave for which benefits are provided
5 pursuant to this chapter as an absence that may lead to or result in discipline,
6 discharge, demotion, suspension, or any other adverse employment action.

7 (d) An employee aggrieved by a violation of the provisions of this section
8 may bring an action in Superior Court seeking compensatory and punitive
9 damages or equitable relief, including restraint of prohibited acts, restitution of
10 wages or other benefits, reinstatement, costs, reasonable attorney’s fees, and
11 other appropriate relief.

12 **§ 2067. NOTICE**

13 (a) An employer shall post and maintain in a conspicuous place in and
14 about each of its places of business printed notices of the provisions of this
15 chapter on forms provided by the Director.

16 (b) An employer shall provide written notice of the provisions of this
17 chapter to new employees within 30 calendar days after the date on which they
18 are hired.

19 **§ 2068. EMPLOYER OBLIGATIONS; EMPLOYEE RIGHTS**

20 (a) Nothing in this chapter shall be construed to diminish an employer’s
21 obligation to comply with any collective bargaining agreement, employer

1 policy, or employment agreement that provides more generous benefits than
2 the benefits provided pursuant to this chapter.

3 (b) Nothing in this chapter shall be construed to diminish any rights,
4 privileges, and protections provided to an employee pursuant to a collective
5 bargaining agreement, employer policy, or employment agreement.

6 (c)(1) An employee taking family and medical leave shall be entitled to all
7 of the rights and protections provided pursuant to section 472 of this title and
8 the federal Family and Medical Leave Act, 29 U.S.C. §§ 2611–2654.

9 (2) An employee taking safe leave shall be entitled to all of the rights
10 and protections provided pursuant to section 472d of this title.

11 (d) Any agreement to waive the rights and protections provided to an
12 employee pursuant to this chapter shall be void.

13 (e) An employee taking bereavement leave for which benefits are paid
14 pursuant to this chapter shall be entitled to the following rights and protections:

15 (1) Upon return from the leave, the employee shall be offered the same
16 or a comparable job at the same level of compensation, employment benefits,
17 seniority, or any other term or condition of the employment existing on the day
18 the leave began.

19 (A) The provisions of this subdivision (1) shall not apply if, prior to
20 requesting leave, the employee had been given notice or had given notice that
21 the employment would terminate.

1 (B) The provisions of this subdivision (1) shall not apply if the
2 employer can demonstrate by clear and convincing evidence that:

3 (i) during the period of leave the employee’s job would have been
4 terminated or the employee laid off for reasons unrelated to the leave; or

5 (ii) the employee performed unique services and hiring a
6 permanent replacement during the leave, after giving reasonable notice to the
7 employee of intent to do so, was the only alternative available to the employer
8 to prevent substantial and grievous economic injury to the employer’s
9 operation.

10 (2) The employer shall continue the employee’s employment benefits
11 for the duration of the leave at the level and under the conditions coverage
12 would be provided if the employee continued in employment continuously for
13 the duration of the leave. The employer may require that the employee
14 contribute to the cost of the employment benefits during the leave at the
15 existing rate of employee contribution.

16 § 2069. REFUNDS OF CONTRIBUTIONS [Committee Discussion]

17 An individual whose combined annual total of covered wages, as defined in
18 section 2054 of this chapter, and covered work income, as defined in section
19 2054 of this chapter, does not exceed \$25,000.00 in the taxable year shall be
20 entitled to a refund of all contributions made by the individual in the taxable
21 year in the same manner as prescribed for income tax refunds under 32 V.S.A.

1 § 5884. The Commissioner of Taxes shall adopt rules to allow an employee or
2 an enrolled self-employed individual who is not required to file a return
3 pursuant to 32 V.S.A. § 5861 to petition for a refund under this section.

4 § 2070. DEFINITIONS

5 As used in this chapter:

6 (1) “Agent” means an individual who holds a valid power of attorney
7 for an employee or self-employed individual or another legal authorization to
8 act on the employee or self-employed individual’s behalf that is acceptable to
9 the Director.

10 (2) “Average weekly earnings” means the sum of a qualified
11 individual’s wages, if any, upon which contributions have been paid pursuant
12 to section 2054 of this chapter during the individual’s two highest-earning
13 quarters plus the qualified individual’s self-employment income, if any, upon
14 which contributions have been paid pursuant to section 2054 of this chapter
15 during the individual’s two highest-earning quarters divided by 26.

16 (3) “Benefits” means Family and Medical Leave Insurance benefits
17 provided pursuant to this chapter.

18 (4) “Bereavement leave” means a leave of absence from employment or
19 self-employment by an individual due to the death of the individual’s family
20 member that occurs not more than one year after the family member’s death.
21 Bereavement leave includes leave taken in relation to the administration or

1 settlement of the deceased family member’s estate. Leave taken in relation to
2 the administration or settlement of the deceased family member’s estate may
3 occur more than one year after the family member’s death.

4 (5) “Director” means the Director of the Division of Family and Medical
5 Leave.

6 (6) “Division” means the Division of Family and Medical Leave in the
7 Office of the Treasurer.

8 (7) “Domestic partner” has the same meaning as in 17 V.S.A. § 2414.

9 (8) “Domestic violence” has the same meaning as in 15 V.S.A. § 1151.

10 (9) “Employee” means an individual who receives payments with
11 respect to services performed for an employer from which the employer is
12 required to withhold Vermont income tax pursuant to 32 V.S.A. chapter 151,
13 subchapter 4.

14 (10) “Employer” means a person who employs one or more employees.

15 (11) “Enrolled self-employed individual” means a self-employed
16 individual who has obtained coverage under the Program pursuant to section
17 2059 of this chapter.

18 (12) “Family and medical leave” means a leave of absence from
19 employment or from self-employment by a qualified individual for one of the
20 following reasons:

21 (A) the qualified individual’s own serious illness or injury;

- 1 (B) to care for a family member with a serious illness or injury;
2 (C) the qualified individual’s pregnancy;
3 (D) recovery from childbirth or miscarriage;
4 (E) the birth of the qualified individual’s child and to care for or bond
5 with the qualified individual’s child within one-year after the child’s birth;
6 (F) the initial placement of a child 18 years of age or younger with
7 the qualified individual for the purpose of adoption or foster care and to care
8 for or bond with the child within one year after the placement for adoption or
9 foster care; or
10 (G) a qualifying exigency arising out of a qualified individual’s
11 family member’s active duty service in the U.S. Armed Forces or notice of an
12 impending call or order to active duty in the U.S. Armed Forces.

13 (13) “Family member” means:

- 14 (A) regardless of age, a qualified individual’s biological, adopted, or
15 foster child; a qualified individual’s stepchild or legal ward; a child of the
16 qualified individual’s spouse or civil union or domestic partner; a child to
17 whom the qualified individual stands in loco parentis; or an individual to
18 whom the qualified individual stood in loco parentis when the individual was
19 under 18 years of age;
20 (B)(i) a parent of a qualified individual or qualified individual’s
21 spouse or civil union or domestic partner, regardless of whether the

1 relationship to the qualified individual or qualified individual’s spouse or civil
2 union or domestic partner is a biological, foster, adoptive, or step relationship;

3 (ii) a legal guardian of a qualified individual or qualified
4 individual’s spouse or civil union or domestic partner; or

5 (iii) a person who stood in loco parentis when the qualified
6 individual or qualified individual’s spouse or civil union or domestic partner
7 was under 18 years of age;

8 (C) a person to whom the qualified individual is legally married
9 under the laws of any state or a civil union or domestic partner of a qualified
10 individual;

11 (D) a grandparent, grandchild, or sibling of the qualified individual or
12 qualified individual’s spouse or civil union or domestic partner, regardless of
13 whether the relationship to the qualified individual or the qualified individual’s
14 spouse or civil union or domestic partner is a biological, foster, adoptive, or
15 step relationship; or

16 (E) as shown by the qualified individual, any other individual with
17 whom the qualified individual has a significant personal bond that is or is like
18 a family relationship, regardless of biological or legal relationship, under the
19 totality of the circumstances surrounding the relationship, including;

1 (i) evidence of shared financial responsibility, such as a shared
2 lease, common ownership of property, joint liability for bills, and beneficiary
3 designations;

4 (ii) evidence of responsibility for the other’s personal wellbeing,
5 including emergency contact designations or an advance directive, as that term
6 is defined pursuant to 18 V.S.A. § 9701;

7 (iii) evidence showing an expectation of care created by the
8 relationship, the prior provision of care, or both;

9 (iv) cohabitation for a period of at least six months or geographic
10 proximity; and

11 (v) other similar evidence demonstrating a significant personal
12 bond.

13 (14) “Highest earning quarters” means the two calendar quarters of the
14 last four completed calendar quarters when an individual earned the highest
15 combined total of wages upon which contributions were paid pursuant to
16 section 2054 of this chapter and self-employment income upon which
17 contributions were paid pursuant to section 2054 of this chapter. [Committee
18 discussion of alternative formula to determine benefits]

19 (15) “In loco parentis” means a relationship in which an individual has
20 day-to-day responsibilities to care for and financially support a child.

1 (16) “Program” means the Family and Medical Leave Insurance
2 Program created pursuant to this chapter.

3 (17) “Qualified individual” means an employee or enrolled self-
4 employed individual who:

5 (A) satisfies the eligibility requirements established pursuant to
6 section 2056 of this chapter; and

7 (B) has submitted an application and all necessary documentation of
8 the need for the leave pursuant to section 2057 of this chapter.

9 (18) “Qualifying exigency” means a qualifying exigency related to
10 active duty service in the U.S. Armed Forces that is identified pursuant to 29
11 C.F.R. § 825.126. [Additional Committee Discussion]

12 (19) “Safe leave” means a leave of absence from employment or self-
13 employment by a qualified individual because:

14 (A) the qualified individual or the qualified individual’s family
15 member is a victim of domestic violence, sexual assault, or stalking;

16 (B) the qualified individual is using the leave for one of the following
17 reasons related to the domestic violence, sexual assault, or stalking:

18 (i) to seek or obtain medical care, counseling, or social or legal
19 services, either for themselves or for a family member;

20 (ii) to recover from injuries;

1 (iii) to participate in safety planning, either for themselves or for a
2 family member;

3 (iv) to relocate or secure safe housing, either for themselves or for
4 a family member; or

5 (v) to meet with a State’s Attorney or law enforcement officer;
6 and

7 (C) the qualified individual is not the alleged perpetrator of the
8 domestic violence, sexual assault, or stalking.

9 (20) “Self-employed individual” means a sole proprietor or partner
10 owner of an unincorporated business, the sole member of an LLC that does not
11 have any employees other than the member, or the sole shareholder of a
12 corporation that does not have any employees other than the shareholder.

13 **[Discuss whether to permit employees]**

14 (21) “Self-employment income” has the same meaning as in 26 U.S.C.
15 § 1402.

16 (22) “Serious illness or injury” means an accident, disease, injury, or
17 physical or mental condition that:

18 (A) poses imminent danger of death;

19 (B) requires inpatient care in a hospital; or

20 (C) requires continuing in-home care under the direction of a
21 physician **[health care provider?]; or**

1 (D) rehabilitation from an accident, disease, injury, or physical or
2 mental condition that satisfies (A), (B), or (C).

3 [Alternative 1] (22) “Serious health condition” means an illness, injury,
4 impairment, or physical or mental condition that involves:

5 (A) inpatient care in a hospital, hospice, or residential medical care
6 facility; or

7 (B) continuing treatment by a health care provider. [requires
8 additional definition of health care provider]

9 [Alternative 2] (22) “Serious health condition” has the same meaning as
10 in 29 U.S. C. § 2611(11).

11 (23) “Sexual assault” has the same meaning as in 15 V.S.A. § 1151.

12 (24) “Stalking” has the same meaning as in 15 V.S.A. § 1151.

13 (25) “U.S. Armed Forces” means:

14 (A) the U.S. Army, Navy, Air Force, Marine Corps, Space Force, and
15 Coast Guard;

16 (B) a reserve component of the U.S. Army, Navy, Air Force, Marine
17 Corps, Space Force, and Coast Guard; or

18 (C) the National Guard of any state.

19 (26) “Wages” means payments that are included in the definition of
20 wages set forth in 26 U.S.C. § 3401.

1 **Sec. 5.** 32 V.S.A. § 3102(e) is amended to read:

2 (e) The Commissioner may, in the Commissioner’s discretion and subject
3 to such conditions and requirements as the Commissioner may provide,
4 including any confidentiality requirements of the Internal Revenue Service,
5 disclose a return or return information:

6 * * *

7 (22) To the Treasurer, the Commissioner of Financial Regulation, and to
8 the Director of the Division of Family and Medical Leave, provided the return
9 or return information relates to the provision of family and medical leave
10 insurance under 21 V.S.A. chapter 26.

11 **Sec. 6.** ADOPTION OF RULES

12 (a) On or before April 1, 2025, the Director of the Division of Family and
13 Medical Leave shall adopt rules necessary to implement the provisions of 21
14 V.S.A. chapter 26.

15 (b) On or before April 1, 2025, the Commissioner of Taxes, in consultation
16 with the Director of the Division of Family and Medical Leave, shall adopt
17 rules as necessary to carry out the provisions of 21 V.S.A. §§ 2054 and 2070.

18 (c) On or before April 1, 2025, the Commissioner of Financial Regulation,
19 in consultation with the Director of the Division of Family and Medical Leave,
20 shall adopt rules as necessary to carry out the provisions of 21 V.S.A. § 2060.

1 (d) On or before October 1, 2026 [Change date? Delete subsection?], the
2 Director of the Division of Family and Medical Leave shall adopt any
3 necessary rules related to an employee establishing that a significant personal
4 bond that is or is like a family relationship exists with another individual,
5 regardless of whether a biological or legal relationship exists between the
6 employee and that individual.

7 **Sec. 7. EDUCATION AND OUTREACH**

8 (a) On or before June 1, 2025, the Director of the Division of Family and
9 Medical Leave shall develop and make available on the Division’s website
10 information and materials to educate and inform employers and employees
11 about the Family and Medical Leave Insurance Program established pursuant
12 to 21 V.S.A. chapter 26.

13 (b) The Director shall make available translations of all information and
14 materials created pursuant to subsection (a) of this section on the Division’s
15 website in the five most commonly spoken languages in Vermont after
16 English.

17 (c) The Division’s website shall be accessible to individuals with
18 disabilities in accordance with WCAG 2.1 AA or a similar updated standard.

1 **Sec. 8.** APPROPRIATION; ADVANCE PAYMENT OF STATE

2 CONTRIBUTIONS

3 (a) The amount of \$20,000,000.00 is appropriated to the Family and
4 Medical Leave Insurance Special Fund from the General Fund.

5 (b) The amount appropriated pursuant to subsection (a) of this section shall
6 be considered an advance payment of the State's portion of the contributions
7 due for State employees pursuant to 21 V.S.A. § 2054(a). The State shall
8 receive a credit against the contributions due from the State pursuant to 21
9 V.S.A. § 2054 equal to 100 percent of the State's portion of the contributions
10 due until the cumulative amount of the credit equals the amount appropriated
11 pursuant to subsection (a) of this section.

12 **Sec. 9.** ADEQUACY OF RESERVES; REPORT

13 Annually, on or before January 15, 2026, 2027, and 2028 [alternative 2027,
14 2028, and 2029], the Director of the Division of Family and Medical Leave, in
15 consultation with the Commissioners of Finance and Management, of
16 Financial Regulation, and of Taxes, shall submit a written report to the House
17 Committees on Appropriations; on General and Housing; and on Ways and
18 Means and the Senate Committees on Appropriations; on Economic
19 Development, Housing and General Affairs; and on Finance regarding the
20 amount and adequacy of the reserves in the Family and Medical Leave

1 Insurance Special Fund and any recommendations for legislative action
2 necessary to ensure that an adequate reserve is maintained in the Fund.

3 Sec. 10. EFFECTIVE DATES

4 (a) This section and Secs. 3, 4, 5, 6, 7, 8, and 9 shall take effect on July 1,
5 2023.

6 (b) Secs. 1 and 2 shall take effect on October 1, 2026.

7 (c) Contributions shall begin to be paid pursuant to 21 V.S.A. § 2054 on
8 July 1, 2025, and, beginning on October 1, 2026, employees may begin to
9 apply for and receive benefits pursuant to 21 V.S.A. chapter 26.

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE